

Message Text

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ORIGIN OPIC-06

INFO OCT-01 AF-06 ISO-00 EB-07 COME-00 TRSE-00 OMB-01

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AF/E:ESHIPPY

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P 162210Z JUL 75

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI PRIORITY

UNCLAS STATE 167669

E.O. 11652: N/A

TAGS: EINV

SUBJECT:APPLICATION FOR OPIC INSURANCE - KENYA - NILE
INVESTMENTS, INC., - 615-75-215

REF: NAIROBI 2580

1. OPIC APPRECIATES EMBASSY COMMENTS REGARDING THE LEVEL OF DIVIDEND REPATRIATION IN LIGHT OF COMPANY'S EQUITY INVESTMENT OF 70,000 DOLLARS. OPIC TAKES SPECIAL NOTE OF EMBASSY RISK ASSESSMENT AS TO LIKELIHOOD OF CONVERSION PROBLEMS AT THIS LEVEL OF REMITTANCE. AS A RESULT OF DISCUSSIONS WITH NILE'S WASHINGTON ATTORNEY, OPIC CONCURS IN EMBASSY OPINION THAT NILE REPRESENTATIVE PROJECTION OF REMITTANCES OF 280,000 DOLLARS VASTLY OVERSTATED. INVESTOR REPRESENTS TO OPIC THAT REMITTANCE OF DIVIDEND AND LOAN AMORTIZATION WILL BE APPROXIMATELY 70,000 DOLLARS.

2. OPIC NOTES THAT INVESTOR HAS MOBILIZED A TOTAL OF
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1,525,023 DOLLARS OF EQUITY, DEBT, AND CREDIT TO THE

PROJECT. WHEN REMITTANCES OF DIVIDEND AND DEBT SERVICE ARE MEASURED IN TERMS OF THIS TOTAL CONTRIBUTION, REMITTANCE LEVELS SEEM MORE ACCEPTABLE.

3. OPIC IN ITS ROLE AS RISK MANAGER PREFERS TO DEAL WITH TRANSFER RISKS BY RESTRICTING ITS COVERAGE FOR INCONVERTIBILITY. WHILE DETAILS OF INSURANCE RESTRICTIONS HAVE NOT BEEN WORKED OUT, THE CENTRAL CONCEPT WOULD BE TO FURTHER REDUCE COVERAGE AVAILABLE IN ABOUT THE FIRST 5 YEARS TO THE EXTENT THAT DIVIDENDS IN ANY YEAR EXCEED A CERTAIN PERCENT OF CAPITAL AND SURPLUS. OPIC DOES NOT BELIEVE IT APPROPRIATE AS A CONDITION PRECEDENT TO ISSUING INSURANCE CONTRACT TO REQUIRE INVESTOR COVENANT TO RETAIN EARNINGS UP TO 1,000,000 DOLLARS.

4. OPIC WILL LIMIT INCONVERTIBILITY COVERAGE TO TAKE ACCOUNT OF DIVIDEND REMITTANCES DURING THE CONTRACT PERIOD. OUR PRESENT LEGISLATION LIMITS COVERAGE TO 90 PERCENT OF THE EQUITY INVESTMENT OR 180 PERCENT OF THE EQUITY INVESTMENT FOR THE MAXIMUM AMOUNT OF INSURED COVERAGE. HENCE, THE EQUITY INVESTMENT OF 70,000 DOLLARS COULD BE INSURED UP TO 126,000 DOLLARS IN THE MAXIMUM AMOUNT.

5. IF THE INVESTOR DESIRES INSURANCE FOR THE FULL AMOUNT OF ITS MAXIMUM COVERAGE OF 126,000 DOLLARS, IT WOULD BE REQUIRED TO DEMONSTRATE ADDITIONAL INVESTMENT IN THE COMPANY EITHER AS NEW EQUITY CAPITAL AND/OR UNCAPITALIZED RETAINED EARNINGS.

6. OPIC HAS NEVER REQUIRED ANY INVESTOR TO AGREE TO FUTURE INVESTMENTS AS A CONDITION PRECEDENT TO INSURANCE FOR ORIGINAL INVESTMENT. THIS WOULD ESTABLISH A HARMFUL PRECEDENT FOR OTHER COUNTRY PROGRAMS, MOREOVER, OPIC SHOULD NOT BE PLACED IN POSITION IN WHICH IT REQUIRES INVESTOR TO AGREE TO FUTURE INVESTMENTS FOR WHICH OPIC CANNOT GIVE ANY COMMITMENT OF INSURANCE COVERAGE. OPIC CANNOT REQUIRE INVESTOR TO MAKE AN INVESTMENT WHICH OPIC CANNOT COMMIT ITSELF TO INSURE.

7. NILE MOST ANXIOUS TO INVEST AND WILL NOT DO SO WITHOUT
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OPIC INSURANCE. IN LIGHT OF COMMENTS ABOVE, PLEASE GIVE

FAVORABLE EMBASSY COMMENTS IF POSSIBLE BY JULY 18. KISSINGER

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